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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA)
Petitioner,)
v.) Civil Case No. 25-mc-00011 (ADC-GLS)
ANA IZQUIERDO,)
Respondent.)

**MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF
CAN BE GRANTED (BECAUSE PETITIONER DID NOT PROVIDE SPECIFIC
QUESTIONS TO WHICH PETITIONER SEEKS A COURT ORDER DIRECTING
RESPONDENT TO ANSWER)**

Respondent, Ana Izquierdo, respectfully moves that this Court dismiss the Petition filed in the above-captioned matter for failure to state a claim upon which relief can be granted, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In support of this Motion, Respondent states as follows:

1. On January 23, 2025, Petitioner filed a Petition, alleging that Respondent asserted a “blanket” Fifth Amendment objection and failed to answer “all questions” presented during a summons interview. Doc. 3.
2. On the contrary, Respondent did not assert a “blanket” Fifth Amendment objection. Rather, Respondent considered each question presented and invoked her Fifth Amendment rights on a question-by-question basis. *See Answer to Petition, ¶¶ 7 and 8.*
3. The Petition fails to identify the questions or even the topics as to which Petitioner seeks to have this Court order Respondent to answer.

4. Without presenting the questions at issue, Petitioner has failed to provide the Court with the information required for the Court to engage in the analysis necessary to make a determination, including as to whether Respondent has satisfied her obligations under the Summons; whether Respondent properly asserted her Fifth Amendment rights; whether Respondent's Fifth Amendment assertions are well-taken; and whether to grant Petitioner's request. *See, e.g., United States v. Allee*, 888 F.2d 208, 214 (1st Cir. 1989) (Court "must evaluate the validity of such objection on the same [question-by-question] particularized basis").

WHEREFORE, Respondent respectfully requests that this Court grant her motion to dismiss the Petition for failure to state a claim upon which relief can be granted, award to Respondent a judgment pursuant to 26 U.S.C. § 7430 for her litigation costs incurred herein; and grant such other relief as is it deems just and proper.

Date: February 18, 2025

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18th day of February, a copy of the foregoing was sent to Assistant United States Attorney Desiree Laborde/Sanfiorenzo by email to desiree.laborde@usdoj.gov.



Michelle Schwerin